IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1640 OF 2006

Jagdeo Ramnath Tiwari ....Petitioner
V/s
The Addl. Collector (ENC) & Ors. ....Respondents.

Ms.Gauri Godse (appointed) Adv. For the petitioner.

Ms.V.S.Mhaispurkar, AGP for the respondents.

CORAM: A.P.DESHPANDE, J.
14/8/07

PC:

Leave to amend. Amendment to be carried out within three days.

The present petitioner claims to be the owner of super structure standing on CTS Nos.436/C/5, 436/C/10, 436/C/11 and 436/C/12. All the properties comprised in CTS No.436-C/1 to 436/C/47 having an area admeasuring 1750.9 sq. mtrs. Came to be declared as slum area vide declaration dated 2.5.05 published in the Maharashtra Government Gazette dated 16.6.05. In the present writ petition an order passed by the President, Maharashtra Slum Areas (I.C. & R) Tribunal, Mumbai rejecting the appeal filed by the present petitioner is challenged mainly on the ground that the petitioner was denied an opportunity of being heard. In Writ Petition No. 945/06 similar order passed by the Tribunal was challenged and the learned Single Judge of this Court by a judgment dated 20.2.06 allowing the petition had directed the Tribunal to decide the appeal afresh after making necessary inquiry. The petitioner in the said petition was permitted to place on record all the material and evidence to substantiate his objection to declaration of the slum. After the remand the Tribunal by an order dated 13.2.06 has set aside the

slum area declaration dated 2.5.05 published in Maharashtra Government Gazette on 16.6.05 in regard to properties which comprise the present petitioner's structure as well. The Tribunal has issued directions that the Competent Authority shall make afresh inquiry after issuing show cause notices to all the appellants and all the occupants and interested and affected concerned persons in respect of the said area. A further direction has been issued to carry out the inspection and an opportunity to produce the documents and material to the persons likely to be affected. Briefly stated the very notification which is the subject matter of the present writ petition having been quashed and set aside nothing survives in the writ petition. However learned advocate for the petitioner submits that as fresh inquiry is to be conducted by the Competent Authority it would be in the interest of justice to afford an opportunity to the present petitioner so that no prejudice is caused to the petitioner. A limited prayer is made that the petitioner should be issued a notice in the inquiry to be conducted by the Competent Authority pursuant to the order passed by the Tribunal dated 13.12.06 disposing of the Appeal No.26/05. The learned Additional Government Pleader appearing for the respondents submits that if so directed the petitioner will be issued a notice by the Competent Authority which is expected to be issued to all interested persons who are either in occupation of premises or otherwise. I deem it appropriate in the facts of the present case to direct the Competent Authority to issue notices to the present petitioner in the proceedings which he would be initiating pursuant to the order dated 13.12.06 passed by the President/Tribunal in Appeal No.26/05 and then proceed to decide the issue in accordance with law. Rule made absolute in above terms.

14.8.07